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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC85-140-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing the Practice of Polysomnographic Technologists
<b>Action title</b>	Correction of names of credentialing bodies and CPR training required
<b>Date this document prepared</b>	2/19/2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Amendments will correct the name of the national organization that accredited certifying or credentialing bodies; it is named in regulation as the National Organization for Competency Assurance, but that body changed its name to the Institute for Credentialing Excellence.

Additionally, applicants for licensure have been uncertain about which certification in cardiopulmonary resuscitation course is required. Currently, regulations specify Basic Cardiac Life Support with a hands-on practice training evaluation segment. The course that includes a

hands-on practice training evaluation segment is the Basic Life Support for Health Care Providers, so amendments will clarify the regulations.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

N/A

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

On February 19, 2015, the Board of Medicine adopted an amendment to 18VACC85-140-10 et seq., Regulations Governing the Practice of Polysomnographic Technologists.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

***§ 54.1-2400 -General powers and duties of health regulatory boards***

*The general powers and duties of health regulatory boards shall be:*

- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health,*

safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

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The purpose of the amendment is to: 1) correct the reference to the body that accredits professional organizations, and 2) clarify that the CPR course required for licensure and renewal of licensure is a hands-on course for health care providers. The amendment to specify that the course required is Basic Life Support for Health Care Providers is essential to ensure that these practitioners are actually able to perform rescue techniques if a client experiences respiratory or cardiac arrest. Polysomnographic technologists are often the only health care providers available when a sleep study is being conducted; their knowledge and skill in resuscitation techniques are necessary to protect public health and safety.

### Rationale for using fast-track process

*Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

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There is no controversy in the adoption of these amendments; they are strongly recommended by the Advisory Board on Polysomnographic Technology and by the staff of the Board of Medicine.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.*

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The amended regulations will: 1) correct the name of the national organization that accredited certifying or credentialing bodies from the National Organization for Competency Assurance to its new name, the Institute for Credentialing Excellence; and 2) specify the required course is the Basic Life Support for Health Care Providers with a hands-on practice training evaluation segment.

### Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

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1) The primary advantage to the public is assurance that polysomnographic technologists conducting sleep studies are appropriately trained in BLS for Health Care Providers. There are no disadvantages.

- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent matters of interest to the regulated community, government officials, and the public.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

**Regulatory flexibility analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative regulatory methods that will accomplish the objective.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and</b></p>	<p>There is no cost for implementation or enforcement. The amendment will correct one reference in regulation and clarify another</p>
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<b>b) a delineation of one-time versus on-going expenditures</b>	reference to CPR training.
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	There are no costs to localities.
<b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	The individuals affected will be polysomnographic technologists applying for licensure or renewal of licensure.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Since this is a brand new profession with initial licensure starting 12/31/14, there are less than 10 licensees thus far. There is no estimate of the number of small businesses because they typically do not practice independently and work in physician practices or hospital settings.
<b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b> a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	There are no costs; the amendments correct or clarify existing regulations.
<b>Beneficial impact the regulation is designed to produce.</b>	Clarification of the CPR course will help applicants and licensees understand the requirement and avoid unnecessary delays in licensure or unnecessary time and expense in taking the incorrect course.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

There are no alternatives that meet the essential purpose of the action.

## Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the

Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

One of the roles of a polysomnographic technologist is the “Education of patients and their families on the procedures and treatments used during polysomnographic technology or any equipment or procedure used for the treatment of any sleep disorder.” Since these practitioners work directly with families in their home, it is essential to ensure that they are properly trained and prepared to handle emergency situations.

### Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
60	<p>Sets out licensure requirements including a professional credential approved by the board or an entity that is a member of the National Organization for Competency Assurance.</p> <p>In subsection B, the applicant must provide documentation of current certification in Basic Cardiac Life Support with a hands-on practice training evaluation segment.</p>	<p>Subsection A is amended to change the requirement to “entity that meets the accreditation standards of the Institute for Credentialing Excellence.”</p> <p><i>NOCA changed its name to ICE, so the regulation needs to be appropriately corrected.</i></p> <p>Subsection B is amended to change the name to Basic Life Support for Health Care Providers.</p> <p><i>Currently, courses are named BLS (Basic Life Support) or BLS for Health Care Providers. The BLS courses can be taken on-line and do not include a live, hands-on segment. To clarify that the BLS course must include a hands-on practice training evaluation segment, the name is changed to BLS for Health Care Providers.</i></p>
70	Sets out the requirements for renewal of licensure	Same change of name to Basic Life Support for Health Care Providers
90	Sets out the requirements for	Same change of name to Basic Life Support for

	reactivation or reinstatement of licensure	Health Care Providers
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